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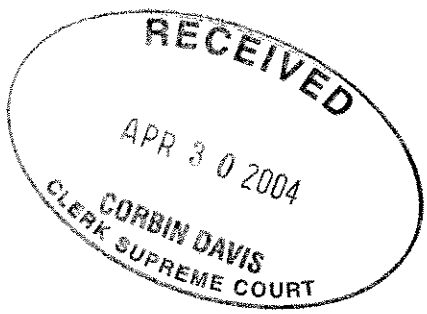

Michigan Supreme Court
Clerk's Office
P.O. Box 30052
Lansing, Michigan 48909

RE: Proposed Amendments to Court Rules
Supreme Court Adm. File No. 2003-4

Dear Justices,

I am writing to oppose the amendments to the Court Rules and procedures, and will ask to change maybe one or two rules that are now in place.

First and foremost, in my experience with this justice system for over forty years I have seen laws and rules change from bad to worse. This panel who proposed these changes could not have had the 9 million citizens of this state in mind when they decided to propose these changes. The average citizen of this state if you were to stop them on the street and ask them, "What is a 6.500 motion?", they would not have a clue. My point is, just to get into law school you must have a Bachelor of Science or Arsts degree or equivalent just to qualify and to attend law school for 2 or 3 years, then pass the bar examination just to practice law and to understand it. Now, to put a limit on a the time to file for relief on just about every prisoner who doesn't have a Bachelor's degree, much less a High School Diploma, and has no clue to legal assistance would have a catastrophic effect on the entire justice system. Moreover, an illegal conviction or sentence does not become legal merely because some artificially created time limit for correction has elapsed.

A most important provision not to enact is the proposed amendment to MCR 6.610(F). How in the world a panel would ever think that not requiring the prosecution to turn over police reports or witness statements to the defense constitutes "fundamental fairness" is beyond comprehension - for a couple of reasons. One, it is common practice in Michigan for the prosecution and police to withhold whatever they choose that "could" prejudice the defense, and then claim - when and if caught - it was just a mistake. Second, enactment of this amendment would not only codify existing practice, but would serve to severely limit a defendant's access to that information when, not if, an unlawful conviction is obtained because of the FOIA bars placed on a defendant's access to government inculpatory information.

As you can see, the many changes in the proposal would deny every citizen of this state their right to every statute and law that is already in place. Why change it to fit the prosecutor? It just doesn't make any sense at all. This includes the 180 day rule, the 25 page limit, the 14 days preliminary examination, etc. The panel, which appears to include some judges - which does not surprise me at all - must have been in the judiciary too long and are burnt

out having been in the legal system too long. They need to change jobs like working in the auto industry at Ford Motor Company on the assembly line or G.M. or Chrysler. The reason I say this is not to be disrespectful but because this is when you would be working with citizens of this state and develop and understanding of your role in state public office. You are supposed to keep in mind the rights of all citizens of this state, not those chosen few - meaning wealthy white people. I have seen to many cases where they benefit and the law bent over backward for them. Had they be poor Afro-Americans, Asians, or Hispanics, they would have been put underneath the penal system. I have seen too many racist judges and prosecutors throughout this state; including this Supreme Court over the years, serve injustice to minorities and poor people. This panel who created this proposal must love Vladimir Ilyich Ulyanov, better known as Lenin, who wrote in 1919 a short essay entitled "The State". The state serves as a special apparatus for the systematic subjugation of people by force, coercion and violence. Prisons, police, courts, armies and laws codifying discrimination work to exploit and oppress the working class and poor. The names of ruling class families and corporations may change, but the core of U.S. "democracy" - the rule of capital - remains the same. I say this because in this country, blacks make up only 12 percent of the population! And the black population in this country makes up over 54.2 percent of the prison population. In Michigan, over 40 percent - not including Asian or Hispanics - are the property of the Michigan Department of Corrections. This panel had to know this - because their proposals would make it impossible for blacks and poor people of this state to have justice. The prison population is already overflowing with people who never had justice and this panel wants to keep them locked into the system where there is no end in sight for the factually innocent, legally innocent, actually innocent or those who otherwise suffered a fundamental miscarriage of justice because they never had an opportunity for a "fair" trial because they were not afforded effective assistance of counsel at the trial or appellate level.

The maxim states: "Ignorance of the law is no excuse." This normally applies when some arcane or ambiguous law is alleged to have been broken. However, now this means that the justice system in this country, and more particularly this state, recognize that citizens who are not aware of the "law" will be appointed counsel who do know the law - or are presumed to know the law - to protect their rights. Wealthy people who can afford to pay for their own lawyers do so, and the majority of times receive fair justice. The reason for this statement is...appointed counsel for the poor and minorities do not provide effective assistance of counsel while at trial or on appeal. They fail to hale expert witness testimony into court, leave off alibi witnesses, character witnesses, potential juror testimony, fail to object properly or timely, and fail to file interlocutory appeals to challenge erroneous and biased rulings to protect their clients rights. This isn't something I'm making up. The court put these remedies in place to avoid gross injustice for the accuse. Remember in the majority of all opinions from appellate courts they always state that the "defendant" failed to object, or the "defendant" failed to testify, or call alibi witnesses or expert witnesses, etc., when it was the attorney's job to do so. And then the court of appeals calls it "harmless error" which is not different than "friendly fire". That is why the ineffective assistance of trial counsel remedies are in place and the appellate courts exist. To bring back to life those who were killed through "friendly fire".

That is also why Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 8 L.Ed.2d 674 (1984) is in place for evaluating deficiencies of the attorney. And long before Strickland, supra, the Courts had Beasley v. U.S., 4491 F.2d 683, 696 (CA 1974), Glasser v. U.S., 315 U.S. 60, 62 S.Ct. 457, 86 L.Ed. 680 (1942), McMann v. Richardson, 397 U.S. 759, 771, 90 S.Ct. 1441 (1970), and People v. Garcia, 398 Mich 250, 257 NW2d (1976), and on appellate counsel, Evitts v. Lucy, 469 U.S., 105 S.Ct. 830, 83 L.Ed.2d 821 (1985), Brady v. Maryland, 373 U.S. 83, (1963). So the prosecutor and the police must turn over evidence that is or could be exculpatory. What this panel is trying to do is take away all the remedies that are in place in statutes, rules, and constitutional amendments that protect the citizen of this state and which guarantee them their rights. The panel here wants to undo that and create a slavery state. Contrary to what many may believe, slavery was not outlawed or abolished in the United States by passage of the 13th Amendment. The 13th Amendment reads: "Neither slavery nor involuntary servitude, excepts as punishment for crimes whereof the party shall have been duly convicted, shall exist within the U.S., or any place subject to their jurisdiction." The 13th Amendment was not to abolish slavery, but to specify more clearly the circumstances under which slavery could continue. Thus, a large number of African-Americans have found themselves "duly convicted" and once again engaged in slave labor. In 1986, former U.S. Supreme Court Chief Justice Warren Burger called for transforming prison into "factories with fences". More accurately, what we now have are plantations with razor wire generating profits for the apparatus. You think the prison systems are overcrowded now? With this panel it will skyrocket beyond what it is now a hundred fold.

Just think. With adoption of these proposals, in effect codifying many existing unwritten policies and procedures, the police can go into the "hood" as we call it, and pick up any black person, lock them up, and the prosecutor can hold them as long as he or she wants, doesn't have to worry about the 14 day preliminary examination or 180 days rule, and can hide all the evidence inculpatory or exculpatory, witnesses and their statements, etc. Now appoint counsel, expect to appoint an appellate counsel - unless the move to eliminate that attorney is reinitiated (See Tesmer v. Granholm), and we know what the end results will be. With this proposal, that person has one year to do their appeal which they have no clue to the law, etc., but that appears to be the panel's point. Do not provide someone with anything to avoid being wrongly convicted and then make sure that they do not have an opportunity to gain their freedom. Now, where is the justice in that?

In summary, it is tempting to observe that this panel is one which has demonstrated Leningrad/Hitler imperialistic type tendencies. However, any panel which has the audacity to think up something of this nature, in an apparent effort to surreptitiously further erode the rights of citizens of this state so they can fill the prisons, eliminate those remaining rights which provide obstacles to governments ability to use and abuse its citizens, and to covertly characterize constitutional "principles" as inducing hemorrhoid-like discomfort to be avoided, should be characterized as merely ethically challenged and not overburdened with a concern for their fellow man. Therefore, the proposals should be rejected by this court overwhelmingly with but one exception. I ask that if anything should be done, that the court consider the "cause" and "prejudice" rules. Requiring a wrongly convicted citizen, particularly one coerced into a plea by a judge, to explain the "cause" for some error that he could not prevent, or to demonstrate "prejudice" when incarceration standing

alone should indicate "prejudice", is not unlike trying to ask a blind man to explain why he did not watch where he was going when he stepped in front of the train. Just because an "unlucky?" defendant didn't see the train of constitutional right deprivations or violations which ran him over does not mean he did not get hurt when he got run over; or that he will recover without help. The courts should merely ask, "Do you think you were wronged?" and "Would you like to tell us about it?". That, however, would not comport with the governments view of what the role of the Courts should be. Perhaps the Courts should look to the "principles" which were once inculcated in the hearts and minds of those who would "Treat others as you would wish to be treated." when the U.S. and Michigan Constitutions were drafted.

I would also like to thank Attorney James Sterling Lawrence for his diligence in bringing out all of the important issues from a "legal" perspective. His advice and recommendations have far more validity than those of the panel.

Respectfully submitted,

Howard Hughes III